

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 02-60772-CV-DIMITROULEAS/ROSENBAUM

THOMAS A. LUKEN, as Assignee for
BUC INTERNATIONAL CORP.,

Plaintiff,

v.

INTERNATIONAL YACHT COUNCIL, LTD.,
and MLS SOLUTIONS, INC.,

Defendants.

ORDER

This matter comes before the Court on Plaintiff's Motion for Five-Day Extension to Respond to Defendant's Opposition to Plaintiff's Motion for Award of Attorney Fees and Costs. [D.E. 1473]. Plaintiff's Motion notes that Plaintiff's counsel did not first confer with Defendants' counsel before filing the Motion. Local Rule 7.1, S.D. Fla., however, requires counsel to "make reasonable effort to confer (orally or in writing), with all parties . . . who may be affected by the relief sought in the motion in a good faith effort to resolve by agreement the issues to be raised in the motion." While Plaintiff's Motion indicates his attorney's belief that such a conference would be futile, as he represents that Defendants' counsel "always" objects, Local Rule 7.1, S.D. Fla., is neither optional nor does it create an exception for belief that opposing counsel will object. Local Rule 7.1 serves the purpose not only of attempting to avoid unnecessary expenditure of judicial resources resolving motions that are not opposed, but also to allow the Court to ascertain whether it should wait for a response from the opposing party before deciding the motion.

Here, in the absence of a representation of Defendants' position, the Court has no way of knowing where Defendants stand on Plaintiff's Motion. In view of the fact that the reply brief for which Plaintiff seeks an extension is due Monday (the business day following today), Plaintiff's failure to confer prevents the Court from being able to rule on Plaintiff's Motion before his reply is due.

Although, among other remedies, Local Rule 7.1 authorizes the Court to deny Plaintiff's Motion for failure to comply with the pre-filing conference requirement, the Court notes that based on Plaintiff's Motion, it appears as though Plaintiff's counsel has been ill during the reply time. Under these circumstances, and in view of the upcoming closing of the courthouse for two days during the holiday season, the Court will exercise its discretion to consider Plaintiff's Motion on the merits.

Consequently, the Court directs Defendants to file a response to Plaintiff's Motion for Five-Day Extension by **2:00 p.m., Monday, December 22, 2008**. Additionally, counsel for all parties are reminded to comply with all Local Rules, including the pre-filing conference requirement embodied in Local Rule 7.1, S.D. Fla.

FILED AND SUBMITTED at Fort Lauderdale, Florida, this 19th day of December, 2008.


ROBIN S. ROSENBAUM
UNITED STATES MAGISTRATE JUDGE

cc: Honorable William P. Dimitrouleas
Counsel of Record